

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

LARRY RICHARDS,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner,  
Social Security Administration, et al.,

Defendants.

No. C 08-1532 PJH

**ORDER DIRECTING REASSIGNMENT  
OF RETIRED JUDGE CASE**

Before the court is plaintiff's complaint, application to proceed in forma pauperis ("IFP"), and motion for temporary restraining order, all filed on March 19, 2008, and reassigned to the undersigned judge on March 21, 2008 because of the lack of consent of all parties to the jurisdiction of the magistrate judge who was originally assigned. Although a new case number has been reassigned, it appears that plaintiff is actually seeking to reopen a previously adjudicated case involving the same parties, *Richards v. Apfel*, C 98-4132 CAL. In that case, Judge Legge, now retired, entered judgment in favor of defendant on April 23, 1999; denied plaintiff's motion to set aside the judgment on July 28, 2000; and was affirmed by the Ninth Circuit on February 6, 2001. In the recently filed complaint, plaintiff states that he seeks enforcement of a previous order of the court entered in the closed case, and in the motion for restraining order, plaintiff states that the issues raised in the current case were previously decided in the closed case.

Accordingly, a new case number should not have been assigned to this case, rather the old case should have been reopened. An easy transfer of this case is hampered, however, by the fact that Judge Legge is no longer with the court. Thus the clerk is directed to reassign the closed case in accordance with the policy and procedure that has

1 been followed for the reassignment of all of Judge Legge's cases – to either a new  
2 randomly selected district judge or to the general duty judge– and to bring the new case to  
3 the judge's attention. The undersigned judge is not entirely clear as to which procedure is  
4 the correct one. The new case should be dismissed as duplicative, but so that it is clear to  
5 the assigned judge what has occurred, the undersigned judge does not order that herein.

6 Given plaintiff's request for temporary injunctive relief, the clerk is requested to make  
7 the assignment as expeditiously as possible.

8 **IT IS SO ORDERED.**

9 Dated: March 26, 2008



10 PHYLLIS J. HAMILTON  
11 United States District Judge  
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UNITED STATES DISTRICT COURT  
FOR THE  
NORTHERN DISTRICT OF CALIFORNIA

LARRY RICHARDS,  
Plaintiff,

Case Number: CV08-01532 PJH

**CERTIFICATE OF SERVICE**

v.

MICHAEL J ASTRUE,  
Defendant.

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I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on March 27, 2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Larry Richards  
2625 Alcatraz Avenue  
#317  
Berkeley, CA 94705-2702

Dated: March 27, 2008

  
Richard W. Wieking, Clerk  
By: Nichole Heuerman, Deputy Clerk